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FILED

MAR 05 2012

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35526 LA
))
))
DAVID JOHN HASER,)
))
))
))
))
Respondents.))

ORDER VACATING ORDER OF SUSPENSION

To: DAVID JOHN HASER
5353 Topanga Canyon Blvd. Ste. 206
Woodland Hills, CA 91364

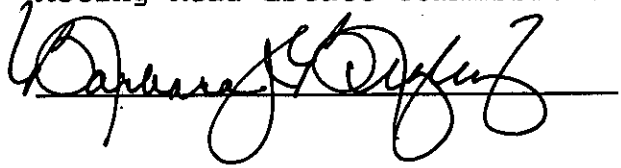
An ORDER SUSPENDING REAL ESTATE LICENSE of Respondent for failing to pay the audit cost set forth in the Real Estate Commissioner's Decision in Case No. H-35526 LA, was filed on February 8, 2012. Respondent subsequently paid the cost of the audit in full.

Good cause appearing therefore, the ORDER SUSPENDING REAL ESTATE LICENSE is hereby vacated.

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IT IS SO ORDERED this 1st day of March, 2012.

BARBARA J. BIGBY
Acting Real Estate Commissioner

A handwritten signature in cursive script, appearing to read "Barbara J. Bigby", is written over a horizontal line.

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FILED

FEB 08 2012

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35526 LA
))
))
DAVID JOHN HASER,)
))
))
))
))
Respondents.))

ORDER SUSPENDING REAL ESTATE LICENSE

To: DAVID JOHN HASER
5353 Topanga Canyon Blvd. Ste. 206
Woodland Hills, CA 91364

Effective March 29, 2010, Respondent entered into a Stipulation and Agreement ("Stipulation") with the Department. Pursuant to the terms of the Stipulation Respondent agreed to pay for the audit as set forth in the Real Estate Commissioner's Decision in Case No. H-35526 LA, effective May 6, 2010. The Commissioner has determined that Respondent has failed to satisfy

1 this condition by not paying for the remaining balance of the
2 audit costs in the amount of \$1.821.40.

3 NOW, THEREFORE, IT IS ORDERED under that the real
4 estate broker licenses heretofore issued to Respondent and the
5 exercise of any privileges thereunder are hereby suspended until
6 such time as Respondent provides proof satisfactory to the
7 Department of having paid for the audit referred to above or
8 pending final determination made after hearing (see "Hearing
9 Rights" set forth below).

10 IT IS FURTHER ORDERED that all license certificates and
11 identification cards issued by the Department of Real Estate
12 which are in the possession of Respondents be immediately
13 surrendered by personal delivery or by mailing in the enclosed
14 self-addressed envelope to:

15 DEPARTMENT OF REAL ESTATE
16 Attention: Flag Section
17 Post Office Box 187000
18 Sacramento, CA 95818-7000

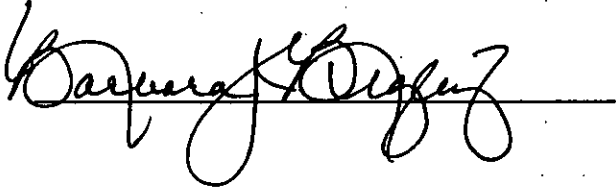
18 HEARING RIGHTS: you have the right to a hearing to
19 contest the Commissioner's determination that you are in
20 violation of the condition that you pay for the audit. If you
21 desire a hearing, you must submit a written request. The request
22 may be in any form as long as it is in writing and indicates that
23 you want a hearing. Unless a written request for a hearing,
24 signed by or on behalf of you, is delivered or mailed to the
25 Department at 320 West Fourth Street, Suite 350, Los Angeles,
26 California 90013, within 20 days after the date that this Order
27

1 was mailed to or served on you, the Department will not be
2 obligated or required to provide you with a hearing.

3 This Order shall be effective immediately.

4 DATED: 1/9/12

5 BARBARA J. BIGBY
6 Acting Real Estate Commissioner

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1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4
5 Telephone: (213) 576-6982
6
7

FILED

APR - 6 2010

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 DAVID JOHN HASER, doing business)
14 as Empire Mortgage, Empire T.D.,)
15 and Empire Trust Deed,)
16 Respondent.)

No. H-35526 LA

STIPULATION
AND
AGREEMENT

17 It is hereby stipulated by and between Respondent
18 DAVID JOHN HASER (sometimes referred to as "Respondent"), and the
19 Complainant, acting by and through Elliott Mac Lennan, Counsel
20 for the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation ("Accusation") filed on
22 December 9, 2008, in this matter:

23
24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

1 Procedure Act ("APA"), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement ("Stipulation").

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. Respondent timely filed a Notice of Defense
9 pursuant to Section 11506 of the Government Code for the purpose
10 of requesting a hearing on the allegations in the Accusation.
11 Respondent hereby freely and voluntarily withdraws said Notice of
12 Defense. Respondent acknowledges that he understands that by
13 withdrawing said Notice of Defense he thereby waives his right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that he will waive other rights
17 afforded to him in connection with the hearing such as the right
18 to present evidence in his defense the right to cross-examine
19 witnesses.
20

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26 or denied, will serve as a prima facie basis for the disciplinary
27

1 action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual
3 allegations.

4 5. This Stipulation is made for the purpose of
5 reaching an agreed disposition of this proceeding and is
6 expressly limited to this proceeding and any other proceeding or
7 case in which the Department of Real Estate ("Department"), the
8 state or federal government, or any agency of this state, another
9 state or federal government is involved, and otherwise shall not
10 be admissible in any other criminal or civil proceedings.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt this Stipulation as his Decision in
13 this matter thereby imposing the penalty and sanctions on
14 Respondent's real estate licenses and license rights as set forth
15 in the "Order" herein below. In the event that the Commissioner
16 in his discretion does not adopt the Stipulation, it shall be
17 void and of no effect and Respondent shall retain the right to a
18 hearing and proceeding on the Accusation under the provisions of
19 the APA and shall not be bound by any stipulation or waiver made
20 herein.
21

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any matters which were not specifically
27

1 alleged to be causes for Accusation in this proceeding but do
2 constitute a bar, estoppel and merger as to any allegations
3 actually contained in the Accusations against Respondent herein.

4 8. Respondent understands that by agreeing to this
5 Stipulation, Respondent agrees to pay, pursuant to Business and
6 Professions Code Section 10148, the cost of audit. The total
7 amount of said cost is \$10,821.40.

8 9. Respondent has received, read, and understands the
9 "Notice Concerning Costs of Subsequent Audit". Respondent
10 further understands that by agreeing to this Stipulation, the
11 findings set forth below in the Determination of Issues become
12 final, and the Commissioner may charge Respondent for the cost of
13 any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations
15 have been corrected. The maximum cost of the subsequent audit
16 will not exceed \$10,821.40.

17
18 DETERMINATION OF ISSUES

19 By reason of the foregoing, it is stipulated and agreed
20 that the following determination of issues shall be made:

21 The conduct of DAVID JOHN HASER, as described in
22 Paragraph 4, above, is in violation of Business and Professions
23 Code Sections 10145, 10176(e), 10176(g), 10233 and 10240,
24 Sections 4970(b)(1)(B) and 4979.6 of the California Financial
25 Code, and Sections 2831, 2835, 2840, 2840.1, 2950(d), 2950(g) and
26 2951 of Title 10, Chapter 6 of the California Code of Regulations
27

1 and is a basis for discipline of Respondent's license and license
2 rights as violations of the Real Estate Law pursuant to Code
3 Sections 10177(d) and 10177(g).

4 ORDER

5 WHEREFORE, THE FOLLOWING ORDER is hereby made:

6 I. All licenses and licensing rights of Respondent
7 DAVID JOHN HASER under the Real Estate Law are suspended for a
8 period of one hundred twenty (120) days from the effective date
9 of this Decision.

10 A. Provided, however, that if Respondent requests, the
11 initial thirty (30) days of said suspension (or a portion
12 thereof) shall be stayed for two (2) years upon condition that:

13 1. Respondent pays a monetary penalty pursuant to
14 Section 10175.2 of the Business and Professions Code at the rate
15 of \$166.66 per day for each day of the suspension for a total
16 monetary penalty of \$5,000.

17 2. Said payment shall be in the form of a cashier's
18 check or certified check made payable to the Recovery Account of
19 the Real Estate Fund. Said check must be received by the
20 Department prior to the effective date of the Decision in this
21 matter.

22 3. No further cause for disciplinary action against
23 the real estate license of Respondent occurs within two (2) years
24 from the effective date of the Decision in this matter.

25 4. If Respondent fails to pay the monetary penalty in
26

27

1 accordance with the terms of the Decision, the Commissioner may,
2 without a hearing, order the immediate execution of all or any
3 part of the stayed suspension, in which event the Respondent
4 shall not be entitled to any repayment nor credit, prorated or
5 otherwise, for money paid to the Department under the terms of
6 this Decision.

7 5. If Respondent pays the monetary penalty and if no
8 further cause for disciplinary action against the real estate
9 license of Respondent occurs within two (2) years from the
10 effective date of the Decision, the stay hereby granted shall
11 become permanent.

12 B 1. The remaining ninety (90) days of the one hundred
13 twenty (120) day suspension shall be stayed for two (2) years
14 upon the following terms and conditions:

15 2. Respondent shall obey all laws, rules and
16 regulations governing the rights, duties and responsibilities of
17 a real estate licensee in the State of California; and

18 3. That no final subsequent determination be made
19 after hearing or upon stipulation, which cause for disciplinary
20 action occurred within two (2) years from the effective date of
21 this Decision. Should such a determination be made, the
22 Commissioner may, in his discretion, vacate and set aside the
23 stay order and reimpose all or a portion of the stayed
24 suspension. Should no such determination be made, the stay
25 imposed herein shall become permanent.
26
27

11. II. All licenses and licensing rights of Respondent

1 DAVID JOHN HASER are indefinitely suspended unless or until
2
3 Respondent provides proof satisfactory to the Commissioner, of
4 having taken and successfully completed the continuing education
5 course on trust fund accounting and handling specified in
6 paragraph (3) of subdivision (a) of Section 10170.5 of the
7 Business and Professions Code. Proof of satisfaction of this
8 requirement includes evidence that respondent has successfully
9 completed the trust fund account and handling continuing
10 education course within 120 days prior to the effective date of
11 the Decision in this matter.

12 III. Pursuant to Section 10148 of the Business and

13 Professions Code, Respondent DAVID JOHN HASER shall pay the
14 Commissioner's reasonable cost for (a) the underlying audit (b) a
15 subsequent audit to determine if Respondent is now in compliance
16 with the Real Estate Law. The cost of the audit which led to
17 this disciplinary action is \$10,821.40. In calculating the
18 amount of the Commissioner's reasonable cost, the Commissioner
19 may use the estimated average hourly salary for all persons
20 performing audits of real estate brokers, and shall include an
21 allocation for travel time to and from the auditor's place of
22 work. Said amount for the prior and subsequent audits shall not
23 exceed \$21,642.80.

24 Respondent shall pay such cost within 60 days of
25 receiving an invoice from the Commissioner detailing the
26 activities performed during the audit and the amount of time
27

1 spent performing those activities.

2 The Commissioner may suspend the license of Respondent
3 pending a hearing held in accordance with Section 11500, et seq.,
4 of the Government Code, if payment is not timely made as provided
5 for herein, or as provided for in a subsequent agreement between
6 the Respondent and the Commissioner. The suspension shall remain
7 in effect until payment is made in full or until Respondent
8 enters into an agreement satisfactory to the Commissioner to
9 provide for payment, or until a decision providing otherwise is
10 adopted following a hearing held pursuant to this condition.

11 IV. Respondent DAVID JOHN HASER shall within six (6)
12 months from the effective date of the Decision herein, take and
13 pass the Professional Responsibility Examination administered by
14 the Department including the payment of the appropriate
15 examination fee. If Respondent fails to satisfy this condition,
16 the Commissioner may order suspension of Respondent's license
17 until Respondent passes the examination.

18 V. Respondent DAVID JOHN HASER shall, within nine (9)
19 months from the effective date of this Decision, present evidence
20 satisfactory to the Real Estate Commissioner that Respondent has,
21 since the most recent issuance of an original or renewal real
22 estate license, taken and successfully completed the continuing
23 education requirements of Article 2.5 of Chapter 3 of the Real
24 Estate Law for renewal of a real estate license. If Respondent
25 fails to satisfy this condition, the Commissioner may order the
26 suspension of the restricted license until Respondent presents
27

1 such evidence. The Commissioner shall afford Respondent the
2 opportunity for a hearing pursuant to the Administrative
3 Procedure Act to present such evidence.

4 VI. During the two year period set forth above,
5 Respondent DAVID JOHN HASER shall not serve as the designated
6 officer for any corporate real estate broker unless and until
7 Respondent is the owner of record of the controlling shares of
8 the corporation.

9
10
11 DATED: 3-18-50

11 674
12 ELLIOTT MAC LENNAN, Counsel for
13 the Department of Real Estate

13 * * *

14 EXECUTION OF THE STIPULATION

15 I have read the Stipulation. Its terms are understood
16 by me and are agreeable and acceptable to me. I understand that
17 I am waiving rights given to me by the California Administrative
18 Procedure Act (including but not limited to Sections 11506,
19 11508, 11509 and 11513 of the Government Code), and I willingly,
20 intelligently and voluntarily waive those rights, including the
21 right of requiring the Commissioner to prove the allegations in
22 the Accusation at a hearing at which I would have the right to
23 cross-examine witnesses against me and to present evidence in
24 defense and mitigation of the charges.

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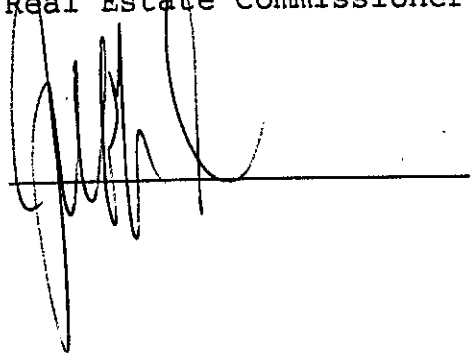
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent DAVID JOHN HASER and
shall become effective at 12 o'clock noon on
May 6, 2010.

IT IS SO ORDERED 3/24, 2010.

JEFF DAVI
Real Estate Commissioner



1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

DEC - 9 2008

DEPARTMENT OF REAL ESTATE

BY: *Aguiar*

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 35526 L.A

12 DAVID JOHN HASER, doing business)
13 as Empire Mortgage, Empire T.D.,)
14 and Empire Trust Deed,)

A C C U S A T I O N

15 Respondent.)

16 The Complainant, Robin Trujillo, a Deputy Real Estate
17 Commissioner of the State of California, acting in her official
18 capacity, for cause of Accusation against DAVID JOHN HASER dba
19 Empire Mortgage, Empire T.D. and Empire Trust Deed, is informed
20 and alleges as follows:

21 1.

22 All references to the "Code" are to the California
23 Business and Professions Code and all references to "Regulations"
24 are to Title 10, Chapter 6, California Code of Regulations.

25 ///

26 ///

1 LICENSE HISTORY

2 2.

3 At all times mentioned, DAVID JOHN HASER
4 ("HASER"), was licensed or had license rights issued by the
5 Department of Real Estate ("Department") as a real estate broker.
6 On October 18, 1985, HASER was originally licensed as a real
7 estate broker.

8 LICENSED ACTIVITIES AND BROKERAGE

9 3.

10 A. At all times mentioned, in the City of Woodland
11 Hills, County of Los Angeles, HASER acted as real estate broker
12 and conducted licensed activities within the meaning of Code
13 Section 10131(d). HASER operated a mortgage and loan brokerage
14 dba Empire Mortgage, and loan servicing brokerage dba Empire T.D.
15 and Empire Trust Deed. HASER engaged in activities with the
16 public wherein lenders and borrowers were solicited for loans
17 secured directly or collaterally by liens on real property,
18 wherein such loans were arranged, negotiated, processed,
19 consummated and serviced on behalf of others for compensation or
20 in expectation of compensation and for fees often collected in
21 advance; and

22 B. Conducted broker-controlled escrows through his in-
23 house escrow under the exemption set forth in California
24 Financial Code Section 17006(a)(4) for real estate brokers
25 performing escrows incidental to a real estate transaction where
26 the broker is a party and where the broker is performing acts for
27

1 which a real estate license is required.

2 FIRST CAUSE OF ACTION

3 AUDIT EXAMINATION

4 4.

5 On September 26, 2008, the Department completed an
6 audit examination of the books and records of HASER, pertaining
7 to the loan servicing and broker-controlled activities described
8 in Paragraph 3 that require a real estate license. The audit
9 examination covered a period of time beginning on January 1, 2007
10 to March 31, 2008 which revealed violations of the Code and the
11 Regulations as set forth below, and more fully discussed in Audit
12 Report LA 070313 and LA 070337 and the exhibits and workpapers
13 attached thereto.

14 TRUST ACCOUNT

15 5.

16 At all times mentioned, in connection with the
17 activities described in Paragraph 4, HASER accepted or received
18 funds in trust from or on behalf of buyers, sellers, investors,
19 lenders and borrowers. Thereafter HASER made disposition of such
20 funds. HASER maintained the following trust account into which
21 were deposited certain of these funds:
22

23
24 "David J. Haser - Empire Trust Deed Client Collection Trust
25 Account

26 12014-16416"

27 Bank of America

Warner Center

Woodland Hills, CA 91367

(T/A #1)

1 "David J. Haser dba Empire Trust Deed
2 1424095956"
3 Citibank
4 Woodland Hills, CA 91364

((B/A #2))

5 VIOLATIONS OF THE REAL ESTATE LAW

6 6.

7 With respect to the licensed activities referred to in
8 Paragraphs 3 and 5, and the audit examination including the
9 exhibits and workpapers referred to in Paragraph 4, it is alleged
10 that HASER:

11 (a) Permitted, allowed or caused the disbursement of
12 trust funds from T/A #1, the loan serving trust account where the
13 disbursement of funds reduced the total of aggregate funds in
14 said trust account, to an amount which, on March 31, 2008, was
15 \$4,121,25, less than the existing aggregate trust fund liability
16 of HASER to every principal who was an owner of said funds,
17 without first obtaining the prior written consent of the owners
18 of said funds, as required by Code Section 10145 and Regulation
19 2832.1. The shortage was cured on April 25, 2008.

20 (b) Negligently or incompetently handled the
21 Juan/Graciella/Nicole Bravo loan transaction for their residence
22 located at 7850 Marek Court, Fontana, by wiring loan proceeds in
23 the amount of \$170,000 to third party Financial Services Network
24 Group, without verifying the veracity of the escrow wiring
25 instruction to HASERS's broker-controlled escrow from the
26 aforesaid borrowers, in violation of Code Section 10177(g).

27 (c) Failed to maintain an adequate control record in
the form of a columnar record in chronological order of trust

1 funds received by T/A #1 and B/A #2, as required by Code Section
2 10145 and Regulations 2831, 2950(d) and 2951.

3 (d) Withdrew escrow trust funds from B/A #2, the escrow
4 trust account, without the prior written consent of every
5 principal or party paying the monies into the respective escrow
6 account, in violation of Code Section 10145 and Regulations
7 2950(g) and 2951. HASER withdrew escrow trust funds in excess of
8 the actual cost of wiring said funds via Western Union, to the
9 borrower, without written authorization from the parties to the
10 Jennifer Filopowicz mortgage loan and broker-controlled escrow.

11 (e) B/A #2, the broker escrow trust account, was not in
12 the name of the broker as trustee at a bank or other financial
13 institution, nor designated as a trust account, in violation of
14 Code Section 10145 of the Code and Regulations 2832(a), 2950(d)
15 and 2951.

16 (f) Failed to disburse from the escrow trust account
17 broker's escrow fees totaling \$43,413.52 within twenty-five days
18 of deposit, in violation of Code Sections 10145 and 10176(e) and
19 Regulation 2835.

20 (g) (1) Failed to disclose that HASER charged credit
21 report fees in excess of the amount billed to the borrower, C & T
22 Development, by the credit reporting company. This failure to
23 disclose constitutes the taking of a secret profit by means of
24 compensation undisclosed to the aforesaid borrowers, in violation
25 of Code Section 10176(g).

26 (g) (2) Received undisclosed compensation by means of an
27 earning credit agreement with Citibank. The earnings credit was

1 based on and calculated by trust fund activity in the escrow
2 trust account, B/A #2. Bank service charges were deducted from
3 the earning credit accrued on the escrow trust account thus
4 reducing HASER's cost of doing business. The earnings credit
5 arrangement was not disclosed by HASER to the beneficiaries of
6 the escrow trust account, in violation of Code Section 10176(g).

7 (h) Failed to provide annual statements to investors
8 Melvin Hoffman, Creative Investment and Leonard Green, at the end
9 of each year for the accounting of unpaid principal balance,
10 indentifying the person holding the original promissory note and
11 deed of trust evidencing and securing the debt or obligation for
12 which the accounting was to have been provided, in violation of
13 Code Section 10233, the loan servicing section.

14 (i) Originated a covered loan transaction that financed
15 points and fees in excess of six percent of the original
16 principal balance, exclusive of points and fees for borrower
17 Jennifer Filipowicz, in violation of Financial Code Section
18 4979.6, with reference to Financial Code Section 4970(b)(1)(B).

19 (j) Failed to provide and/or maintain an approved
20 Mortgage Loan Disclosure Statement containing all the information
21 required by Code Section 10241(c) before borrowers became
22 obligated to perform under the terms of their respective loans,
23 as required by Code Section 10240 and Regulations 2840 and
24 2840.1.

25 ///

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DISCIPLINARY STATUTES AND REGULATIONS

7.

The conduct of Respondent HASER, described in Paragraph 6, above, violated the Code and the Regulations as set forth:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6(a)	Code Section 10145 and Regulation 2832.1
6(b)	Code Section 10177(g)
6(c)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
6(d)	Code Section 10145 and Regulations 2950(g) and 2951
6(e)	Code Section 10145 and Regulations 2832(a), 2950 (d) and 2951
6(f)	Code Sections 10145, 10176(e) and Regulation 2835

THIRD OF ACTION

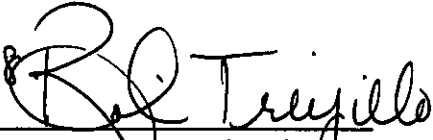
SUPERVISION AND COMPLIANCE

9.

The overall conduct of Respondent HASER constitutes a failure on his part to exercise reasonable supervision and control over the licensed activities of his brokerage of making hard money loans to multiple private investors, as required by Code Section 10177(h), and to keep in compliance with the Real Estate Law and the Predatory Lending Law, and is cause for the suspension or revocation of the real estate license and license rights of HASER pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondent DAVID JOHN HASER, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 8 day of December 2008 
Deputy Real Estate Commissioner

cc: David John Haser
Robin Trujillo
Sacto
Audits - Surrender Bhatia